

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Reform of the Interstate
Access Charge Rules

RM-8356

REPLY COMMENTS

New York Telephone Company ("NYT") and New England Telephone and Telegraph Company ("NET") (collectively, the "NTCs") hereby submit their Reply to the comments on the Petition for Rulemaking ("Petition") in the above matter filed by the United States Telephone Association ("USTA") on September 17, 1993.

I. INTRODUCTION

The comments submitted by the NTCs, and others, in this proceeding demonstrate that, in light of dramatic changes which have occurred in the interstate access marketplace in the decade since the Commission's interstate access rules were initially adopted, fundamental reform of the Commission's interstate access rules is required. There is also widespread support for a notice of proposed rulemaking ("NPRM") as the appropriate vehicle for achieving that reform, and for USTA's

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Petition as an appropriate starting point for the rulemaking proceeding.¹

The NTCs submit these Reply Comments to respond to the claims of several parties that the time is not yet ripe for access reform. The NTCs also respond to other parties who, while conceding that access reform is required, argue that (1) a Notice of Inquiry ("NOI") is the appropriate regulatory vehicle for initiating the reform process; or (2) the Commission should address subsidy issues before proceeding with access reform. These parties are incorrect, and their arguments should be rejected by the Commission.

II. AN NPRM FOR FUNDAMENTAL ACCESS REFORM, BASED ON THE PRINCIPAL POINTS OF USTA'S PETITION, SHOULD BE ISSUED WITHOUT FURTHER DELAY

Several parties argue that fundamental access reform is unnecessary, primarily because "LECs still maintain a bottleneck monopoly over exchange access services, and there is no immediate prospect of effective competition in that market."² These parties are incorrect. As the NTCs have demonstrated, the LECs' so-called "bottleneck" control of local switches and circuits has clearly been eroded by changes in

¹ See Comments of BellSouth Telecommunications; Comments of Southwestern Bell Telephone Company; Comments of the National Telephone Cooperative Association; Comments of the National Exchange Carrier Association; GTE's Comments.

² Comments of American Telephone and Telegraph Company at p. 2 ("AT&T"). See also Opposition of Competitive Telecommunications Association, at pp. 9-11; Comments of the Ad Hoc Telecommunications Users Committee, at pp. 5, 8.

technology and market conditions.³ Competitive access providers ("CAPs") and interexchange carriers ("IXCs") offer alternatives to the LECs' networks. Competition from those sources has developed in the NTCs' region more quickly than in any other part of the country.⁴ Moreover, the NTCs have demonstrated that competition in the NTCs' region is also substantial in the state arena.⁵ This competition will only continue to grow with expanded interconnection, and as CATV and wireless providers forge alliances for direct, head-to-head competition with local telephone companies. With competition robust, and growing, the time for fundamental access reform has clearly arrived.

³ See, In the Matter of a Petition for Declaratory Ruling and Related Waivers to Establish a New Regulatory Model for the Ameritech Region, Comments of the NYNEX Telephone Companies, dated June 11, 1993 at pp. 8-18; See also In the Matter of Federal Perspectives on Access Charge Reform, Comments of the NYNEX Telephone Companies, dated September 23, 1993 at pp. 4-6; Comments of the NYNEX Telephone Companies at pp. 3-6 ("Comments").

⁴ In support of their argument that there is insufficient interstate access competition to warrant access reform, several commenters claim that CAPs have attained only a "one percent" share of the interstate access market. (See AT&T at p. 5). These market share statistics are misleading for several reasons. First, they do not include those numerous instances where the IXC provides its own access facilities, rather than using those of a CAP. Furthermore, competition by CAPs has not been ubiquitous. Rather, the CAPs have used their advantages to gather large market shares in targeted market segments, while entirely ignoring less profitable market areas. The market share statistics used by these parties do not reflect the state of competition in the NTCs' region, where CAPs have focused their activities.

⁵ Comments at p. 4.

Several parties argue that, while access reform is necessary, the process should be initiated with an NOI because the Commission has not yet compiled a sufficient record on which to base an NPRM.⁶ These parties are incorrect. Within the past year, there have been several proceedings in which access reform was the central issue. Both Ameritech and the National Association of Regulatory Utility Commissioners have submitted plans for access reform, while a staff task force of the Commission's Common Carrier Bureau recently issued a detailed position paper on the subject. Each of those proceedings, as well as this proceeding, has drawn wide interest and has generated comment from all segments of the industry. Given the scores of comments filed by the parties in these proceedings, which have provided the Commission with an extensive record on access reform, an NOI would be an unnecessary step which would only slow the reform process. The Commission should instead immediately issue an NPRM.

Finally, several parties argue that the Commission should address subsidy issues before proceeding with access reform.⁷ Such an approach is not only unnecessary, it would unduly delay critical access reform.

The NTCs believe that reform of the assistance and contribution mechanisms contained in the access charge rules

⁶ See Comments of MFS Communications Company, Inc. at pp. 2-3; Comments of MCI Telecommunications Corporation at pp. 1-3.

⁷ See Opposition of Hyperion Telecommunications at pp. 13-15; MFS at p.2.

should be accomplished as part of the NPRM. The LECs' interstate access rates contain significant contributions to support universal service obligations, thereby impairing their ability to compete with alternative service providers, whose rates do not reflect these subsidies. Moreover, as the NTCs have demonstrated, it is not necessary to conduct a lengthy proceeding to reform the separations system in order to address the problem of support obligations contained in interstate access rates.⁸ Rather, the problem of support obligations can and should be addressed by permitting alternate recovery mechanisms within the interstate jurisdiction. This process can proceed, as the NTCs have suggested, as a part of an NPRM for access reform or as a separate proceeding. Fundamental access reform should not, however, be postponed until completion of a proceeding to address subsidies in the LEC's interstate access rates.


⁸ Comments at pp. 9-11.

III. CONCLUSION

A comprehensive rulemaking for reform of the Commission's interstate access rules should be initiated without further delay. That rulemaking should be based on the principal points contained in USTA's Petition.

Respectfully submitted,

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and
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Dated: November 16, 1993

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing REPLY
COMMENTS, was served by first class United States Mail, postage
prepaid, on each of the parties indicated on the attached service
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